

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.791 of 2019**

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Ravi Prakash @ Ravi Chopra Son of late Baldev Prasad Chopra Resident of Raigopal Sarkar Lane (Mahanth Narayan Das Lane), Naya Bazar, P.S. Kotwali, District- Bhagalpur.

... .. Defendant/Petitioner

Versus

Ashok Kumar Jivrajka Son of late Shankar Lal Jivrajka, Resident of Sujaganj, Post-Sujaganj, P.S. Kotwali, District- Bhagalpur impleaded in the Capacity of Secretary Tormal Dilsukh Rai Trust Dharmshala, Laheritola, Ramdasgupta Path, Bhagalpur.

... .. Plaintiff/Respondent

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Appearance :

For the Petitioner : Mr. Bimlendu Mishra
For the Respondent : Mr. Dhananjay Kumar Pandey

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 21-06-2019

In the instant application preferred under Article 227 of the Constitution of India, the petitioner has challenged the order dated 29.04.2019 passed by the learned Munsif-II, Sadar, Bhagalpur in Title (Eviction) Suit No. 18 of 2016 whereby he has rejected multiple applications filed by the petitioner.

2. Learned counsel for the petitioner submitted that the court below has failed to appreciate the order dated 19.04.2019 passed by this Court in Civil Miscellaneous Jurisdiction No. 424 of 2019 whereby the petitioner was allowed to appear before the court and lead his evidence. He submitted that by denying the petitioner to lead documentary evidence the court below has



actually flouted the order passed by this Court willfully and deliberately.

3. The facts of the case, in brief, are that the respondent had filed Title (Eviction) Suit No. 18 of 2016 under Section 11(1) (C) and 14 of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982 (for short 'BBC Act') seeking eviction of the petitioner from the suit premises on the ground of personal necessity and bonafide requirement. In the said suit the petitioner has been made defendant. By order dated 08.02.2019 the learned Munsif had closed his evidence.

4. After the order dated 08.02.2019 was passed and the evidence of the petitioner was closed, an application was filed by the petitioner on 16.02.2019 under Order 18 Rule 17 and Section 151 of the Code of Criminal Procedure (for short 'CPC') in the court of Munsif-II, Bhagalpur praying therein for recall of the order dated 08.02.2019. The said application of the petitioner was rejected by the learned Munsif vide order dated 22.02.2019.

5. Being aggrieved by the aforesaid order dated 22.02.2019 passed in Title (Eviction) Suit No. 18 of 2016, the petitioner preferred Civil Miscellaneous Jurisdiction No. 424 of 2019 before this Court. The said civil miscellaneous application was disposed of by this Court vide order dated 19.04.2019 with



consent of the parties and the order dated 22.02.2019 was modified to the extent that in case the petitioner appears before the court of Munsif on 29.04.2019, the learned Munsif shall allow him to depose. It was also made clear that apart from the defendant petitioner, no other witness on his behalf shall be examined. It was further directed that in case the petitioner fails to appear before the court on 29.04.2019, the evidence on his part shall stand closed.

6. The petitioner appeared before the court below on 29.04.2019. He was examined, cross-examined and discharged. However, he filed four applications on that day without mentioning any provision of law. In the first application, he had prayed for calling for the record of Miscellaneous Case No. 43 of 2005 from the court of District Judge, Bhagalpur. In the second application, he had prayed for calling for two registered *arpannama* from the office of the Sub-Registrar, Bhagalpur. In the third application, he had prayed for granting leave in order to file certain documents. In the fourth application, he had prayed for admitting the documents filed by the petitioner and marking them as exhibits.

7. By the impugned order dated 29.04.2019, after hearing the parties, the trial court dismissed all the four applications filed by the petitioner observing that by the order



dated 19.04.2019 passed in Civil Miscellaneous Jurisdiction No. 424 of 2019 the Court had only permitted the petitioner to depose.

8. The order impugned passed by the trial court cannot be faulted with in view of the fact that while modifying the order dated 22.02.2019 passed by the trial court in the eviction suit vide order dated 19.04.2019 passed in Civil Miscellaneous Jurisdiction No. 424 of 2019, this Court had made it clear that apart from the defendant petitioner no other witness on his behalf shall be examined. The said order dated 19.04.2019 could not have been interpreted in the manner of reopening the case on behalf of the defendant. The manner in which the petitioner has filed numerous applications before the trial court on 29.04.2019, it would be evident that the defendant petitioner is trying his level best to delay the disposal of the eviction suit.

9. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.06.2019
Transmission Date	

